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who pollutes the stream. *Stockport Waterworks Company v. Potter*, 3 H. & C. 300. Nor may he sensibly affect the flow to other proprietors. *Ormerod v. Todmorden Joint Stock Mill Co.*, *supra*. Some American cases take the opposite view. *Doremus v. Mayor, etc. of Paterson*, 63 N. J. Eq. 605, 52 Atl. 1107; *St. Anthony Falls Water-Power Co. v. City of Minneapolis*, 41 Minn. 270. It would seem that these natural rights of riparian ownership should be kept strictly appurtenant to riparian land. Nor should a new easement be established by conferring upon the inland proprietor any property right even though less comprehensive than that of riparian ownership, for public policy should oppose any such extension of outstanding rights of property which interfere materially with the enjoyment of land in the hands of subsequent purchasers. But see *Builer Hard Rubber Co. v. Mayor, etc. of Newark*, 61 N. J. L. 32. Such a separation of property rights would likely prove both inconvenient and economically detrimental. The best view would seem to be that the grant or reservation amounts to a mere covenant between the parties. The court in the principal case adopted this view and refused specific performance of the covenant since continuous supervision would be required.

BOOK REVIEWS.

A TREATISE ON THE LAWS GOVERNING THE EXCLUSION AND EXPULSION OF ALIENS IN THE UNITED STATES. By Clement L. Bouvé. Washington, D. C.: Byrne and Company. 1912. pp. xxvi, 915.

All independent states have the inherent sovereign power to regulate or even prohibit the entrance of aliens. Most, if not all, have at various times exercised it, but none has been called upon to do so to such an extent as the United States; nor has anyone, with the possible exception of Canada, devised so intricate a system for sifting of aliens seeking to enter. For this there is good reason, for about twenty million aliens have come here since 1880, and in the last ten years they have been coming at the rate of approximately eight hundred thousand per annum. The present list of excluded classes is the growth of many years. The federal law of 1875 excluded only criminals and prostitutes, whereas to-day the following classes, amongst others, are excluded:

- Idiots, imbeciles, feeble-minded persons, and epileptics.
- Insane persons and those who have been insane within five years.
- Persons who at any time have had two or more attacks of insanity.
- Paupers and persons likely to become a public charge.
- Persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease (including trachoma).
- Persons suffering from any mental or physical defect which may affect their ability to earn a living.
- Criminals, polygamists, and anarchists.
- Prostitutes, procurers, and "persons who are supported by or receive in whole or in part the proceeds of prostitution."
- Persons coming to perform manual labor under contract made abroad.
- Persons whose ticket or passage has been paid for by any association, municipality, or foreign government.
- Children under sixteen unaccompanied by either parent, except in the discretion of the Department.

Even a cursory glance at this list shows that grave administrative difficulties must often be encountered in determining who come within the designated classes, this being particularly true as to who are paupers, persons likely to become a public charge, and persons suffering from physical defects which *may*

affect their ability to earn a living. It is also evident that any effective administration of the law requires the services of numerous skilled medical officers, and that the task of determining which of eight hundred thousand persons a year are suffering from any of the mental defects indicated is an enormous one. Congress has confided all of this work to the executive branch of the Government, and it has been discharged successively through the Treasury Department and the Department of Commerce and Labor, and will from now on be discharged through the recently created Department of Labor. Elaborate machinery is necessary for its performance; the same can be best observed at Ellis Island, through which eighty per cent, more or less, of all of the immigrants who come to the United States pass. Congress at an early date recognized the impossibility of detecting all of those who belong to the excluded classes during the short period available for their inspection at their arrival, and, therefore, wisely added provisions under which those who may enter in violation of law (as well as certain other classes not necessary to be mentioned here) can within a certain period, usually three years, be expelled by the executive authorities.

The immigration law applies to all aliens, including the Chinese; but the exclusion of the Chinese is further governed by a special law much more drastic than the immigration law, which latter it is rarely found necessary to apply to the Chinese. Some of the differences in the machinery for the enforcement of the two measures are the following. Under the immigration law, (a) aliens applying for admission are examined by an inspector, who, if not satisfied that they are "clearly and beyond a doubt" entitled to land, detains them for examination by a board of special inquiry consisting of three inspectors; and (b) aliens found after entry unlawfully in the country are arrested and expelled by an order (known as a warrant) of the Department after a hearing before an immigration official designated by him. Under the Chinese exclusion law, (a) Chinese applying for admission are examined by an inspector who reports to the immigration official in charge at the port, and the latter (not a board of special inquiry) determines whether the applicant shall be admitted or rejected; and (b) Chinese found after entry unlawfully in the country are arrested either on a warrant of the Department and given a hearing of the character above referred to, or they are arrested on a warrant issued by a United States judge or commissioner (usually the latter), and given a judicial or quasi-judicial trial to determine whether they are entitled to be and remain here.

The book here subject to review deals with and explains these matters, which have never heretofore been made the subject of special treatment, though they are of great and growing importance. It includes also a discussion of the general principles, international and municipal, governing the exclusion and expulsion of aliens, and an interesting chapter entitled "Status," dealing amongst other things with the somewhat complicated and indefinite topic of the rights of aliens under international and municipal law, with the standing of aliens who become domiciled, and with that of "seamen," to whom the immigration law applies only in a very limited sense. We may not agree with all that the writer says concerning the inapplicability of the immigration law to some domiciled aliens (matters upon which the Supreme Court has not yet finally passed — the *Lapina* case will be argued shortly), but they are nevertheless interesting and suggestive. The writer further explains at length the principal processes of inspection and other details of the machinery of the law, and gives an outline of the "procedure" followed by the immigration authorities and little understood by those who have not had to do with these laws.

Notwithstanding the statutes declare the decision of the immigration authorities to be final, yet the courts undertake to look into the same sufficiently to determine whether or not they have given the alien a "fair hearing." This

important matter is carefully discussed in a separate chapter entitled "Judicial Review of Administrative Decisions." There is appended also a valuable table of cases which brings together for the first time all decisions rendered by the courts under both the Chinese Exclusion and Immigration Laws. One is at once impressed with the fact that most of these cases arise under the former law, over the administration of which the courts are, as already stated, granted certain statutory jurisdiction. In connection with the attempts made to secure a judicial review of the actions of the executive authorities under the immigration law the author might have advantageously emphasized more strongly than he has done the fact that such attempts almost always fail. During the past year only thirty-five writs were issued against the Ellis Island authorities, though during this time some seventy thousand of the eight hundred thousand arriving aliens were detained for special inquiry and ten thousand deported, approximately; and of these thirty-five writs only two were upon their return sustained. The number of writs will be still smaller if the sworn petition presented to the court were required to show wherein the executive authorities were supposed to have violated the law by facts, and if the mere conclusions of attorneys as to such supposed violations were rejected.

The author devotes a chapter to the discussion *seriatim* of the sections of the present immigration law, each of which he sets out in full. This course has disadvantages arising out of the fact that Congress has legislated most unintelligently as regards the order in which it has placed the various provisions of the law. That which is important is mingled with that which is unimportant, provisions that should follow each other are widely separated, and matters of vital substance are found buried in unimportant detail. One of the many illustrations of this is the relegating of the supremely important provision as to the holding of doubtful aliens for special inquiry to the last lines of a section (24) which deals largely with the grades of employees and their salaries. The discussion of the several provisions of the law would be much more useful to him who is not fully acquainted with its intricacies if the material ones were segregated and discussed in their proper order and relation to each other.

The author has perhaps devoted too much space to reproduction and discussion of the Department "Rules," made to assist in the execution of the statute. These are subject to frequent change and are at all times readily obtainable from Washington in pamphlet form. On the other hand it would undoubtedly be of interest to many if in another edition the author were to develop further the methods by which the board of inquiry seeks to elicit the relevant facts and to insert perhaps two or three well-considered records. It would be well also for him to deal more fully with the expressions "likely to become a public charge" and "suffering from a physical defect which may affect ability to earn a living," and to show in greater detail the various points which the immigration authorities usually consider in determining whether or not aliens come within these excluded classes.

Appendix "A" collates (for the first time, we believe) the laws of other countries regarding the exclusion and expulsion of aliens.

The book is full of useful and interesting information, and should be in the possession of all concerned in the execution of the immigration or the Chinese exclusion law.

W. W.

THE FOURTEENTH AMENDMENT AND THE STATES. By Charles Wallace Collins. Boston: Little, Brown, and Company. 1912. pp. xxi, 220.

This book explains the origin of the Fourteenth Amendment, the enlarging view which the courts have taken as to its scope, the kind of cases actually arising under it, the objections now made, and possible remedies. The book is interesting throughout; but perhaps the most striking parts are those in